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**'Humanitarian Intervention after 9/11' in Anthony Lang (ed.),
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Introduction

What impact will September 11 have on the future of humanitarian intervention? For liberals like Michael Ignatieff, the worry is that the 'war against terrorism' is trumping human rights concerns in U.S. foreign policy.² Rather than promoting human rights, the U.S. is aligning itself with repressive governments that support its counter-terrorist policies. This strategy is a 21st century replay of the Cold War when the need to secure allies against Soviet communism led the U.S. to support dictators all round the world. The considerable softening of the American position on Russia's human rights violations in Chechnya in return for its support in the war against terrorism is one of the many examples of this shift in priorities.³

The marginal role accorded human rights under President George W. Bush is a disturbing development, but it would be wrong to imply that this marks a decisive break with past U.S. policy. Whatever the rhetoric of the Clinton administration, it didn't strongly advance human rights and humanitarian intervention in its foreign policy. Indeed, what is striking in the area of humanitarian intervention is the similarity between the position taken by Clinton and his successor. During the election campaign, Bush and Democratic challenger Albert Gore publicly endorsed Clinton's decision not to send U.S. troops to Rwanda to stop the genocide in 1994.⁴ It is virtually inconceivable that the

² Michael Ignatieff, 'Is the human rights era ending.' *New York Times*, 5 February 2002. For a less pessimistic view, see Tim Dunne, 'After 9/11: What next for human rights', *International Journal of Human Rights*, Vol.6, No.2 (forthcoming Summer 2002).

³ For a further discussion see Dunne, 'After 9/11.'

⁴ Quoted in Cori E. Dauber, 'Implications of the Weinberger Doctrine for American Military Intervention in a Post-Desert Storm Age' in Colin McInnes and Nicholas J. Wheeler (eds.), *Dimensions of Western Military Intervention* (London: Frank Cass, 2001), p.80. The furthest Bush would go was to state that were another Rwanda to occur when he was President, he would seek to 'encourage [the United Nations] to move.' Quoted in Tom Farer, 'Humanitarian Intervention after 9/11: legality and legitimacy' in Jeff Holzgrefe and Robert Keohane (eds.), *Humanitarian Intervention: Legal, Political and Ethical Perspectives* (Cambridge: Cambridge University Press, forthcoming 2002).

Bush Administration would risk U.S. forces to save strangers in peril after having declared a state of national emergency following the attacks on September 11. The President likened the threat posed by al Qaeda to the U.S. to that of Nazism.⁵ This privileging of national interest over an ethic of human solidarity continues the trend in U.S. and Western policy during the last decade. In the 1990s, the humanitarian impulse was not the dominating factor in any cases of armed intervention that placed the lives of military personnel at significant risk.⁶ There was considerable debate among academics and practitioners in the 1990s as to whether there is, or should be, a legal right of humanitarian intervention for individual states. But the barrier to protecting endangered citizens in Rwanda and Bosnia was not the constraint of sovereignty and the norm of non-intervention. It was the reluctance of states in Kofi A. Annan's words to 'pay the human costs of intervention'⁷ when they believed they had no significant interests at stake. Based on this reading, September 11 merely serves to accentuate the political constraints on humanitarian intervention established in the last decade.

The war against terrorism opens up an alternative moral possibility: military interventions could be used to promote both counter-terrorist and humanitarian objectives. If what was lacking in the 1990s was a compelling security interest to motivate intervention in situations of humanitarian emergency, then does the threat posed by global terrorism supply the missing ingredient? The case of al Qaeda's relationship with the Taliban in Afghanistan suggests that terrorists will

⁵ See Text of Bush's speech to Congress, *Los Angeles Times*, 20 September 2001, www.latimes.com, downloaded on 4 November 2002

⁶ This argument is made in Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

⁷ Kofi A. Annan, *Preventing War and Disaster: A Growing Global Challenge* (1999 Annual Report on the Works of the Organization; New York, 1999), p.21

find secure havens in ‘failed states.’ Such states are defined by: a collapse of the civil government; an absence of law and order; gross and systematic human rights abuses; massive violations of international humanitarian law; and private militias and factions controlling the means of violence.⁸ Could military intervention aimed at wiping out terrorist groups in failed states also contribute to protecting their endangered populations? To explore this question, this chapter focuses on the U.S. intervention in Afghanistan. Bush claimed that humanitarian goals would be accomplished at the same time as the defeat of al Qaeda and the Taliban when he launched ‘Operation Enduring Freedom’ (OEF) on 7 October 2001.

There is considerable controversy over the legality and the legitimacy of America’s use of force in response to the attacks of September 11. It is not my intention here to enter into this debate.⁹

Rather, my purpose is to show the contradictions between U.S. humanitarian claims and the conduct of its intervention in Afghanistan.

Crucially, I argue that there were (and are) alternative policies available

that would have satisfied U.S. security interests whilst also protecting Afghan civilians from starvation and lawlessness. The first section considers which criteria should be met for an intervention to count as humanitarian. This revolves around the complex relationship between motives, justifications, means and outcomes. This framework is then applied to the case of Afghanistan. The second part exposes the discrepancy between the altruistic protestations of the Bush Administration and the moral consequences of its military and political

⁸ UK Ministry of Defence’s *Peace Support Operations Joint Warfare Publication* (JWP 3-50), para 205.

⁹ For a good overview see Michael Byers, ‘Terror and the Future of International Law’ in Ken Booth and Tim Dunne (eds.), *Worlds in Collision: Terror and the Future of Global Order* (London: Palgrave Macmillan, 2002), pp.118-128.

strategy. There is disagreement over how far interveners should take on a long-term responsibility for rebuilding failed states. What is significant in this case is that the administration acknowledged an obligation to help the Afghan people rebuild a viable government. Living up to this pledge requires a prolonged political, economic and military commitment. The final part of the chapter argues that whilst the U.S. and the wider international community have committed economic aid for general reconstruction, there has been a failure to provide the military forces necessary to the provision of effective security for the Afghan people.

What counts as a legitimate humanitarian intervention?

The generally accepted understanding of humanitarian intervention is defined by Wil Verwey as: ‘the threat or use of force by a state or states...*for the sole purpose of preventing or putting a halt to a serious violation of fundamental human rights.*’¹⁰ Similarly, Bhikhu Parekh considers humanitarian intervention as an act ‘wholly or primarily guided by the sentiment of humanity, compassion or fellow feeling, and in that sense disinterested.’¹¹ Intervention of this character is thus viewed as an act of great kindness in which a particular political community places the lives of its nationals at risk to save non-citizens in danger. Richard Miller pushes this logic to its extreme when he suggests that it is “a form of altruism writ large, a kind of self-sacrificial love”¹² that expresses our common humanity. Outsiders should be totally other-regarding in their actions, to the point of giving up their

¹⁰ Cited in Oliver Ramsbotham and Tom Woodhouse, *Humanitarian Intervention in Contemporary Conflict* (Cambridge: Polity Press, 1996), p.43 (emphasis added).

¹¹ Bhikhu Parekh, ‘Rethinking Humanitarian Intervention’, *International Political Science Review*, 18/1 (January 1997), p.54.

¹² Richard B. Miller, ‘Humanitarian Intervention, Altruism, and the Limits of Casuistry’, *Journal of Religious Ethics*, Vol.28, No.1 (Spring 2000), p.17.

lives to protect fellow humans in need. Few versions of humanitarian intervention would establish such a demanding requirement. In effect, Miller's position requires soldiers to place the protection of civilians before any concerns about their own survival. A more modest ethic would require soldiers to accept considerable risks to save non-citizens but still maintain the right to protect themselves. Even this concession to a cosmopolitan morality challenges head-on the realist or statist conviction that military humanitarian intervention violates the compact between state and citizen; states have a primary obligation to protect their citizens from danger, including those who serve in the armed forces.¹³ Some realists would rule out any military humanitarian intervention on these grounds. Others would accept that there is a responsibility to help those in need subject to this not challenging core security interests or imposing overly high costs on the intervening state's military personnel. This concern with reducing the risks faced by soldiers sits very uneasily with Miller's notion that humanitarian intervention is an act of self-sacrifice. Faced with these two extreme positions on the balance to be struck between self and other-regarding actions, the challenge is to find a strategy that protects civilians without exposing military personnel to excessive dangers. Western states failed to achieve this balancing act in the 1990s. It was the value of 'force protection' that dominated the conduct of Western intervention, leading to a failure to act when civilians were at risk as in Bosnia and, most shockingly in Rwanda, where over 800,000 people perished in the genocide.

¹³ For an exploration of how humanitarian intervention challenges the postulates of the statist paradigm, see Parekh, 'Rethinking Humanitarian Intervention.'

The West's failure to satisfy an ethic of humanitarianism in its interventions fuelled the long-standing suspicion of the doctrine of humanitarian intervention on the part of many Third World states. In debates on the legitimacy of humanitarian intervention, spokespersons for Southern governments stress the importance of disinterestedness in a state's actions. Ambassador Soliman Awaad, Egyptian Assistant Foreign Minister for Multilateral Affairs, maintains that the legitimacy of intervention depends upon "norms and criteria of humanitarian intervention...[being] indiscriminately applied to all cases without double standards or politicization."¹⁴ Requiring an intervention to be exclusively motivated by ethical values sets too high a moral standard, and no action will satisfy such an ambition. It is hardly surprising then that we find this position advanced by those governments that are opposed to legitimating a doctrine of humanitarian intervention. Moreover, it begs the question of how to judge whether an intervention is motivated purely by this consideration. Individuals are often blind to the multiplicity of reasons that inform their actions. Why should it be assumed that governments are any different? Judging the publicly professed reasons against a state's subsequent actions is one test for gauging the validity of the rationales invoked for an action. However, even if there is no discrepancy, this does not rule out the presence of other non-humanitarian motives.

A less stringent requirement is that humanitarian motives be the primary but not exclusive reason for intervention. This position was adopted in the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS) which declares: "The primary

¹⁴ Soliman Awaad, 'Sovereignty and Intervention: The Legal Aspects' (Paper presented at the Conference on State Sovereignty in the 21st Century: 'Concept, Relevance and Limits', New Delhi, 23-4 July 2001) p.4.

purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering.”¹⁵ This viewpoint presupposes the legitimacy of non-humanitarian reasons when the moral imperative to rescue is the driving force behind action. The ICISS suggests three possible sub-tests for assessing whether this criterion has been satisfied: the operation should be multilateral in character; it should have the support of other states in the region, and the intervention should be welcomed by those whom it is intended to help.¹⁶ The difficulty with this formulation is that it provides no basis for distinguishing between strong and weak humanitarian motives. Comparing the gap between justifications and subsequent actions might alleviate the problem for if the humanitarian motive is weak or even non-existent, it might be expected that the demonstrated commitment to defending humanitarian values would be very limited.

Making the primacy of motives the defining test of a legitimate humanitarian intervention excludes cases where states act for non-humanitarian reasons but produce a positive humanitarian outcome. The best examples of this are India’s intervention in East Pakistan in 1971, Vietnam’s intervention in Cambodia in December 1978 and Tanzania’s intervention in Uganda in 1979.¹⁷ In each case, the use of force motivated primarily by concerns of self-defence led to the ending of human rights emergencies. This leads Michael Walzer to argue “mixed motives are a practical advantage”¹⁸; in the absence of important security interests, neither India nor Tanzania (he does not mention

¹⁵ *The Responsibility to Protect* (Report of the International Commission on Intervention and State Sovereignty, International Development Research Centre, Ottawa, December 2001), p.xii.

¹⁶ *The Responsibility to Protect*, p.36.

¹⁷ The three cases are discussed in detail in Wheeler, *Saving Strangers*, pp.55-139.

¹⁸ Michael Walzer, ‘The Argument about Humanitarian Intervention’, *Dissent*, 49/1 (Winter 2002), p.6, www.dissentmagazine.org/archive, visited on 7 March 2002.

Vietnam) would have intervened. The ICISS argues that a good test of a state's humanitarian bona fides is the degree to which the victims welcome the intervention. This argument breaks down in the case of Vietnam's intervention in Cambodia because the available evidence suggests that humanitarian concerns played little or no part in Vietnam's decision to intervene.¹⁹ Yet the Cambodian people initially viewed the action as one of liberation because it rescued them from the brutality of the Khmer Rouge.²⁰ This was a case where self-defence was compatible with the rescue of the Cambodian people from what Mr Bouhdiba, Chairman of the UN Sub-Commission on Prevention and Discrimination and Protection of Minorities, described as nothing less than 'auto-genocide.'²¹ The humanitarian credentials of the Vietnamese action were tarnished by the subsequent human rights abuses of the government it installed to replace the Khmer Rouge. But this does not alter the fact that Vietnam's actions in removing the Pol

¹⁹ A humanitarian justification was explicitly rejected by the Vietnamese Foreign Minister as a legitimate basis for the use of force. Foreign Minister Nguyen Co Thach told Congressman Stephen Solarz that 'human rights was not a question; that was their problem...We were concerned only with security.' Quoted in Stephen A. Garrett, *Doing Good and Doing well: An Examination of Humanitarian Intervention* (Westport, CT: Praeger, 1999), p.120. For a detailed discussion of the Vietnamese intervention, see Gary Klintworth, *Vietnam's Intervention in Cambodia in International Law* (Canberra: Australian National University, 1984).

²⁰ Based on interviews with survivors of the Pol Pot regime, William Shawcross concluded that 'the Vietnamese intervention had been a true liberation' (Quoted in Klintworth, *Vietnam's Intervention in International Law*, p.65). Further evidence for this claim is provided by Prince Sihanouk who said that the Cambodian people welcomed the Vietnamese as 'saviours' (*Cambodian Information Office Newsletter*, May 1997, 19, quoted in Klintworth, *Vietnam's Intervention in International Law*, p.65). A seasoned observer of the region, Nayan Chanda, reflected that: In hundreds of Cambodian villages, the Vietnamese invasion was greeted with joy and disbelief. The Khmer Rouge cadres and militia were gone. People were free again to live as families, to go to bed without fearing the next day...it was as if salvation had come...One refrain that I heard constantly from the survivors was "If the Vietnamese hadn't come, we'd all be dead" (Nayan Chanda, *Brother Enemy The War After the War* (New York: Collier, 1986), p.370).

²¹ Quoted in Klintworth, *Vietnam's Intervention in International Law*, p.62.

Pot regime provided an important measure of protection for the Cambodian people compared to the horrors they had just lived through.

This case lends support to those like Fernando Teson who argue that the prominence accorded the motives of the intervenor is based on a flawed methodology. He writes that unless the non-humanitarian reasons behind an action 'have resulted in further oppression by the intervenors...they do not necessarily count against the morality of the intervention. The true test is whether the intervention has put an end to human rights deprivations. That is sufficient to meet the requirement of disinterestedness, even if there are other, non-humanitarian reasons behind the intervention."²² This argument is supported by Gary Klintworth, who argues that Vietnam's toppling of Pol Pot met 'the criteria for an excusable humanitarian intervention, because 'the net result of [the intervention] was to interrupt the killing that was underway inside Cambodia."²³ Building on Teson's work, I argued in *Saving Strangers* that motives should only disqualify an intervention as humanitarian if it could be shown that they had undermined the humanitarian success of the operation. To satisfy the minimum or threshold requirements of a legitimate intervention, four criteria must be met: there must be a supreme emergency which I defined following Walzer as an act that 'shock[s] the moral conscience of mankind'; second, all credible avenues of peaceful redress must have been exhausted (the principle of last resort in the Just War tradition); third, the military means employed must be proportionate to the gravity of the human rights violations; and finally, there must be a positive humanitarian outcome defined as *rescue* (ending the humanitarian

²² Fernando Teson, *Humanitarian Intervention: An Inquiry into Law and Morality* (Dobbs Ferry, NY: Transnational Publishers, 1998), pp.106-107.

²³ Klintworth, *Vietnam's Intervention in International Law*, p.76.

emergency in the short-term) and long-term *protection* (addressing the underlying political causes of the abuse of human rights).

The last requirement is a particularly controversial one. Parekh argues that humanitarian intervention should be distinguished from the delivery of aid to those in need. The latter, he argues, is only concerned to relieve suffering; it does not address its underlying causes. It might be argued that satisfying this requirement establishes too demanding a test of humanitarian intervention. Moreover, if this standard were widely accepted, it could have the effect of inhibiting states from engaging in such open-ended commitments. This concern is reinforced by the worry that ambitious experiments in ‘nation building’ aimed at addressing the root causes of gross human rights abuses would end in failure and a humiliating exit. Are outsiders engaging in a dangerous kind of moral hubris in believing they can solve the problems of troubled war-torn societies like Kosovo, Somalia and Afghanistan? Without ignoring the force of these arguments, or denying that armed rescue to end genocide or mass murder is morally preferable to inaction, this short-term conception of intervention is fatally flawed. The problem is that once the intervening forces pull out, there would be little to prevent a return to conflict and violence within the society. The challenge facing intervening states is to relieve the immediate suffering whilst taking on a long-term political, economic, social and military commitment to help local actors create a new law-governed polity. The ICISS called this the “responsibility to rebuild,” arguing that the long-term aim of “international actors...[is] “to do themselves out of a job” by handing back responsibility to local elites.²⁴ To avoid the danger of intervention turning into a new imperialism or

²⁴ ICISS, p.45.

neo-colonialism, outside actors must, according to Parekh, 'ensure that the structure [new government] is evolved by or in cooperation with the affected parties and not externally imposed.'²⁵ The question that he does not answer is how interveners should respond if dominant power holders within the society forcibly resist the creation of new structures of legitimate authority that seek to marginalize their influence.

Although Vietnam's intervention in Cambodia was widely condemned at the time as a breach of the sovereignty principle, I argued in *Saving Strangers* that it counts as humanitarian because there was a happy - if purely inadvertent - coincidence between motives, means and a positive humanitarian outcome.²⁶ Vietnam did not consciously tailor its intervention to meet the goals of proportionality and long-term protection of human rights, and in this sense, its ending of 'auto-genocide' inside Cambodia is best labelled a case of 'inadvertent humanitarian intervention.'²⁷ This can be contrasted with cases where an actor justifies the use of force by invoking humanitarian claims. States that seek to occupy the moral high ground risk being exposed as hypocrites if they fail to meet this standard of behaviour. American intervention in Afghanistan poses some difficult conceptual issues in this regard because there was no attempt by the administration to argue at the outset that it was

²⁵ Parekh, 'Rethinking Humanitarian Intervention', pp.55-56. This definition of a successful humanitarian intervention is also encapsulated in Teson's test as to whether it has 'rescued the victims of oppression, and whether human rights have subsequently been restored.' See Teson, *Humanitarian Intervention*, p.106.

²⁶ This occurred in the Cambodian case because Vietnam's toppling of Pol Pot for exclusively national security reasons ended the tyranny of the Khmer Rouge over the Cambodian people. Such a fortuitous result cannot be guaranteed in other cases. I am grateful to Jack Donnelly for alerting me to the significance of this latter point.

²⁷ I am grateful to Colin McInnes for suggesting this term. The moral philosopher Peter French refers to cases where actions motivated by other reasons accidentally lead to good ends as 'unintended good Samaritanism.' Peter French (ed.), *A World Without Responsibility* (New York: St. Martin's Press, 1991), p.5. I am grateful to Toni Erskine for bringing French's work to my attention.

motivated primarily by humanitarian reasons. Nevertheless, there was a clear intention on the part of the Bush Administration to buttress political support for the action by partly defending the operation in these terms. The remainder of the chapter examines how well U.S. political and military leaders lived up to these humanitarian claims.

Humanitarian motives and means in Operation Enduring Freedom

The plight of the Afghan people in the 1980s and 1990s is well documented; twenty years of civil war had destroyed any semblance of legitimate state institutions, with warlords²⁸ ruling different parts of the country. Through the 1990s, there was a growing toll of civilian casualties as a result of armed conflicts between the rival factions, and all parties to the civil war were responsible for gross violations of human rights. Faced with such a desperate situation, 2.3 million people had sought refuge in neighbouring Iran since the early 1980s.²⁹ In 2000, international non-governmental human rights organisations and UN humanitarian relief agencies predicted an impending humanitarian catastrophe, exacerbated by the worst drought in 30 years, placing 1.5 million Afghans at risk. The Taliban's own brand of fanatical Islam compounded the suffering of women who found themselves virtually enslaved: they were denied basic education; an authoritarian dress code was imposed; and there was restricted access to medical care.³⁰ The humanitarian emergency inside Afghanistan in

²⁸ The term warlord is popularly evoked to describe the political make-up of failed states. I am following the New Oxford Dictionary of English that defines a warlord as 'a military commander, especially an aggressive regional commander with individual autonomy.'

²⁹ Briefing by the American Red Cross, 8 October 2001, <http://www.redcross.org/news/ds/0109wtc/011008afghanaid.html>, downloaded on 17 March 2002.

³⁰ The litany of abuses is set out in the State Department's Report, 'The Taliban's War Against Women', US Department of State International Information Programmes, 17

2000-2001 raises the question whether armed intervention was justified to protect a population in danger. The Clinton Administration never seriously considered using U.S. forces to remove the Taliban. Instead, it restricted itself to non-military coercive pressures by supporting the imposition of sanctions in the hope that this would induce the Kabul government to stop providing a safe haven for al Qaeda. At the same time, the administration delivered humanitarian aid to alleviate the suffering of the Afghan people. Indeed, the U.S. was the largest supplier of humanitarian aid to Afghanistan in 2001.

The atrocities inflicted on U.S. citizens by al Qaeda on September 11 fundamentally changed calculations on intervention in Afghanistan. Bush declared the following objectives in launching OEF on 7 October 2001: to attack al Qaeda terrorist training camps and military installations of the Taliban regime; to bring al Qaeda's leaders - crucially bin Laden - to justice; and to send a signal to other states that those harbouring terrorist groups risk similar attacks being visited on them.³¹ Yet from the outset of the campaign, the President also felt it necessary to justify the action in humanitarian terms. He declared:

The oppressed people of Afghanistan will know the generosity of America and its allies. As we strike military targets, we'll also drop food, medicine and supplies to the

November 2001, www.usinfo.state.gov/topical/rights/women/01111702.htm, downloaded on 16 March 2002.

³¹ 'President Bush announces military strikes in Afghanistan', 7 October 2001, US Department of State International Information Programmes, www.usinfo.state.gov/regional/eur/terrorism/bush1007.htm, downloaded on 16 March 2002.

starving and suffering men and women and children of Afghanistan.³²

Given Bush's publicly stated opposition to using the U.S. military for 'soft' humanitarian purposes, the depth of his moral commitment should be called into question. Conversely, it could be argued that the commitment to deliver humanitarian aid as part of the operation against al Qaeda and the Taliban was a logical development of the administration's pre-war role as the major aid donor to Afghanistan.³³ Trying to demonstrate Bush's sincerity --or lack of it--demonstrates the limits of relying solely on motives as the defining yardstick of legitimate intervention. What matters is that the President felt it was necessary to publicly defend the action in humanitarian terms, an implicit admission that this justification was a necessary enabling condition of the action. The President recognised the importance of being seen to address the humanitarian crisis in bolstering international support for U.S. action, especially among public opinion in the Islamic world.

Six weeks into the war, Deputy Assistant Secretary of Defence for Peacekeeping and Humanitarian Affairs, Joseph J. Collins, repeated Bush's pledge that humanitarian assistance was an integral part of the Pentagon's military strategy. He stated that 'military actions have not slowed humanitarian assistance but rather...[it has been] possible to both fight successfully and to accelerate humanitarian assistance at the

³² 'President Bush announces military strikes in Afghanistan', 7 October 2001, US Department of State International Information Programmes, www.usinfo.state.gov/regional/eur/terrorism/bush1007.htm, downloaded on 16 March 2002.

³³ British Prime Minister, Tony Blair, reportedly had stressed to Bush his firm belief that counter-terrorist goals should be pursued in conjunction with relief efforts. Michael Evans, 'Airstrikes may have to wait for aid airlift', *The Times*, www.thetimes.co.uk, downloaded on 20 May 2002.

same time.”³⁴ Collins pointed to UN World Food Programme (WFP) deliveries of aid that reached record levels in October and November. Before OEF at least one and a half million Afghans were at risk from starvation. Speaking at a State Department briefing on 3 January 2002, Andrew S. Natsios, Administrator for the U.S. Agency for International Development (USAID), declared that this number had received assistance. In reply to a question regarding the impact of the military operation on the delivery of aid, he claimed that the defeat of the Taliban in November had ‘made it possible for [humanitarian] operations to get back up [leading to] the success, the rapid success.’³⁵ The extent to which the need to publicly legitimate military operations as a contribution to relief efforts had become part of the language of U.S. military leaders can be seen in a press conference given by the Chief of U.S. Central Command, General Tommy Franks, on 18 January 2002. He claimed that the attack against the Taliban had gone hand-in-hand with a humanitarian relief operation that had saved thousands of lives and this was something Americans should be proud of.³⁶

This rosy picture of the humanitarian consequences of OEF differed sharply from the story told by non-governmental relief organisations (NGOs) operating inside the country. The President of Médecins Sans Frontières (MSF), Jean-Herve Bradol, reiterated the organisation’s long-standing view that there was a fundamental

³⁴ Joseph J. Collins, ‘Special briefing on humanitarian assistance for Afghanistan’, insert http://www.centcom.mil/news/press_briefings/Franks_18jan.htm, downloaded on 19 March 2002.

³⁵ Andrew S. Natsios, Special Press Briefing on Humanitarian Assistance to Afghanistan, US Department of State, 3 January 2002, www.state.gov/p/sa/ris/rm/7027.htm, downloaded on 20 May 2002.

³⁶ Jim Garamone, ‘Humanitarian Success Story in Afghanistan’, www.militarylifestyle.com/home/1,1210,S:11.....:1521,00.htm, downloaded on 19 June 2002.

contradiction between ‘shooting with one hand while offering aid with the other.’³⁷ If aid is not perceived as entirely neutral, then there is a risk that those delivering it will be viewed as partisan and hence legitimate targets of war. Ian Wallace, Operations Director of the UK relief organisation Tearfund, endorsed this view. He stated that, “Food should not be used as a weapon of war...there is an inevitable conflict of interest between the political objectives of Operation Enduring Freedom and the humanitarian principles of impartiality and neutrality.”³⁸ The U.S. airdropped hundreds of thousands of packets of food aid, but aid workers dismissed this as a propaganda stunt. The action was aimed at winning the favour of the Afghan people, which aid agencies recognized as a political, and not a humanitarian, objective. MSF officials contended that the food drops were so minor and poorly targeted in relation to the needs of the people that they were far outweighed by the negative effects of the bombing.³⁹ Moreover, there is evidence that the aid packets had adverse humanitarian consequences: civilians were killed on occasions when packages hit them or their homes; the vulnerable and weak were the least able to take advantage of such drops; and many Afghans were afraid to approach the rations packets, which were the same color as the U.S. Air Force’s cluster bomb casings.⁴⁰ Those humanitarian NGOs that opposed the U.S. military

³⁷ Quoted in Jonathan Chait, ‘Look who’s against dropping food’, *The New Republic*, 5 November 2001, www.thenewrepublic.com/110501/chait110501.html, downloaded on 23 March 2002.

³⁸ Quoted in Keith Ewing, ‘Tearfund: safe areas for Afghanistan better than air-drops’, *Reuters*, www.alertnet.org/thenews/from the field/300678, 12 October 2001, downloaded on 20 March 2002.

³⁹ See interview with Austen Davis, General-Director of MSF Holland, 15 October 2001, <http://www.msf.org/countries/page.cfm?articleid=6305A703-EB70-4F41-8A0E25ED5F24969E>, downloaded on 22 March 2002.

⁴⁰ Stephen Castle, ‘Humanitarian air drops criticised after US aid kills women in her home’, *The Independent*, www.independent.co.uk, 30 November 2001, downloaded on 20 May 2002; Andrew Gumbel, *The Independent*, www.independent.co.uk, downloaded on 20 May 2002; Nathan Ford, ‘Afghanistan – humanitarian aid and military intervention don’t mix’, *Médécins Sans Frontières* web site, 7 November 2001,

intervention called upon all sides *in* the conflict to create a neutral humanitarian space within which the UN's World Food Programme (WFP) and relief organisations could safely deliver food. Exposing the 'humanitarian cover' employed by the U.S. as a sham, the President of Médecins de Monde, Claude Moncorgé, argued that this ““humanitarian” label” should not be given “to strategies, interests...and options decided by a military staff in function of the interests of the state that employs them.”⁴¹ These views reflect the strong antipathy among many aid agencies to the idea that force can support humanitarian objectives.

The NGOs' prescription to create a neutral humanitarian space overlooked the fact that it was the difficulty of securing consent from the warring parties that had contributed to a worsening of the humanitarian situation in 2001-2002. Moreover, the criticism that association with the U.S. military would compromise humanitarian relief efforts was founded on a misunderstanding as to the role that the military was playing. Because of concerns that relief convoys with U.S. military protection would become targets, USAID had recommended that the military not be used for the specific delivery of aid. This decision was justified on the basis of U.S. experience in Bosnia where “The convoys that had no military protection had a higher delivery rate than those with military protection.”⁴² This decision makes an important concession to those in the humanitarian aid community who worry that military intervention jeopardises their neutrality whilst als

<http://www.msf.org/countries/page.cfm?articleid=6A534F6C-233B-46AE-83BBEF2580A86AD4>, downloaded, 22 March 2002.

⁴¹ Claude Moncorgé, 'Humanitarianism doesn't rhyme with military', *Liberation*, www.perso.fraise.net/compose/liberation-foodbombs.html, downloaded on 22 March 2002.

⁴² Andrew S. Natsios, Special Press Briefing on Humanitarian Assistance to Afghanistan, US Department of State, 3 January 2002, www.state.gov/p/sa/ris/rm/7027.htm, downloaded on 20 May 2002.

recognising that force is sometimes necessary to create a secure environment in which such operations can take place. Formatted

While the available evidence points to a significant increase in humanitarian aid reaching Afghans by January 2002, the short-term effect of the bombing campaign was the significant undermining of existing relief efforts. It was not until late November that adequate supplies of relief aid were reaching the country, the fall of the Taliban and Bush's decision to give a further \$325 million in aid being key factors in this. With the demise of the Taliban, UN international staff and NGOs who had left the country owing to the lack of security returned, and local drivers were now prepared to deliver aid to areas where previously there had been fighting. Nevertheless, it took a couple of months to reach most of those who needed help. It is estimated that during this period there was a 40% reduction in aid deliveries.⁴³ Carl Conetta, who has undertaken an authoritative study of the humanitarian consequences of the U.S. bombing campaign, estimates that the number of internally displaced persons increased by approximately 360,000; 200,000 Afghans fled to Pakistan and Iran, and a minimum of 3,000 Afghans died as a result of the disruption to aid deliveries.⁴⁴ The latter could be a conservative figure as much depends upon how the disruption of aid impacted on already very high mortality rates in central, Northern and Western Afghanistan. On a worst-case basis, Conetta estimates that it could have been as many as 20,000, whilst Jonathan Steel suggests that the figure could be as high as

⁴³ Jonathan Steele, 'Forgotten Victims', *The Guardian*, 20 May 2002.

⁴⁴ Carl Conetta, 'Strange Victory: A critical appraisal of Operation Enduring Freedom and the Afghanistan war', Project on Defense Alternatives, 30 January 2002, www.comw.org/pda/0201strangevic.html, downloaded on 7 March 2002, p.5.

49,600.⁴⁵ These estimates are, of course, counterfactual, as no one knows how many Afghans would have died had the bombing not taken place.⁴⁶

Any assessment of the humanitarian results of OEF has to take into account not only the indirect effects of the bombing but also its direct impact on Afghan civilians. The Pentagon has released no official figures for civilian casualties, but Conetta claims in a separate study that the bombing killed 1,000-3,000 innocent Afghans.⁴⁷ The Pentagon made considerable efforts to avoid civilian casualties, and Secretary of Defence Donald Rumsfeld declared, "I can't imagine there's been a conflict in history where there has been less collateral damage, less unintended consequences."⁴⁸ There is evidence that air strikes were called off due to concerns about civilian casualties. Nevertheless, there are also grounds for arguing that the U.S. did not exercise sufficient care in targeting residential areas where it suspected al Qaeda and Taliban personnel were hiding. Likewise, it can be argued that the U.S. did not make sufficient effort to ensure that the intelligence it received from local regional commanders was accurate before launching air

⁴⁵ These figures are arrived at by estimating the mortality rate among internally displaced persons based on a comparable figure with the death rate in the refugee camps. This in turn is contrasted with the mortality rate before the bombing took place. For a fuller discussion see Conetta, 'Strange Victory' and Steele, 'Forgotten Victims', *The Guardian*, 20 May 2002.

⁴⁶ Jonathan Steele, 'Forgotten Victims', *The Guardian*, 20 May 2002.

⁴⁷ Carl Conetta, 'Operation Enduring Freedom: Why a Higher Rate of Civilian Bombing Casualties', Project on Defense Alternatives, Briefing Report#11, 24 January 2002, p.3 www.comw.org/pda/0201oef.html, downloaded on 25 January 2002, p.3. The most controversial assessment of the number of civilian casualties was provided by Marc W. Herold in December 2001. See Marc Herold, 'Afghan killing fields', letter to *The Guardian*, 13 February 2002. For his full report see Marc W. Herold, 'A Dossier on Civilian Victims of United States' Aerial Bombing of Afghanistan: A Comprehensive Accounting', 3 December 2001. A report by Associated Press dated 11 February 2002 and based on eyewitness accounts claimed that the casualty figure did not exceed a 1,000. See Deb Riechmann, 'Hundreds lost, not thousands', *Associated Press*, 11 February 2002, www.msnbc.com/news/704903.asp?cpl=1, downloaded on 15 May 2002.

⁴⁸ Cited in William Arkin, 'Fear of civilian deaths may have undermined effort', *Los Angeles Times*, 16 January 2002, www.latimes.co, downloaded on 16 January 2002.

strikes. The inadvertent but foreseeable killing of Afghan civilians as a consequence of U.S. strikes rested very uneasily with Bush's claim that the use of force was aimed at the Taliban and al Qaeda and not at the Afghan people.⁴⁹ As one of the anti-Taliban commanders whose forces were central to the battle in December against al Qaeda in the Tora Bora Mountains, lamented:

Why are they hitting civilians? This is very bad. Hundreds have been killed and injured. It is like a crime against humanity. Aren't we human?⁵⁰

One of the horrific realities of war is that it is impossible to provide total immunity to civilians. The ethical question raised by U.S. conduct of OEF is whether American military personnel should have accepted greater risks in order to better protect innocent civilians.

Was there a more humane means of intervention that would also have met the vital U.S. security interest in defeating al Qaeda? Conetta argues that OEF should not have been launched until the regional military commanders had reached a firm consensus on the political framework for a post-Taliban government.⁵¹ The United Front that included the Tajik based 'Northern Alliance' (dominated by the Panshiri faction of the Shura-I-Nazar) and the Uzbek forces of General Abdul Rashid Dostrum were the backbone of the anti-Taliban resistance. Any new political order had to accommodate this grouping but the key building a new legitimate government depended upon ensuring that other ethnic groups – crucially the majority Pashtun community - were

⁴⁹ For a discussion of the ethical issues raised by US targeting policy, see Nicholas J. Wheeler, 'Dying for 'Enduring Freedom': Accepting Responsibility for Civilian Casualties in the War against Terrorism', *International Relations* Vol.16, No.2 (forthcoming 2002).

⁵⁰ Quoted in Conetta, 'Strange Victory', p.21.

⁵¹ Conetta, 'Strange Victory', pp.27-31.

brought into the governing process. The best means of achieving th

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would have been the rapid deployment of a force of at least 30,00

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troops to come in behind the United Front as it routed Taliban forces.⁵²

Such a force mandated under Chapter VII could have facilitated humanitarian relief efforts; reduced the risks of banditry; disarmed any warlords who challenged the agreed structure of political authority; and helped train a new national army and police force. Even in the absence of an agreement on a new political framework, the deployment of a robust international force would have facilitated relief efforts and helped establish a secure environment.⁵³ This operation would not have precluded U.S. Special Force attacks against al Qaeda and Taliban personnel, including the use of limited air power.⁵⁴ However, it would have reduced the number of direct and indirect civilian casualties that occurred as a consequence of the bombing campaign. The Bush Administration opposed such a deployment for three reasons: first, it viewed this type of operation as a distraction from the central task of defeating the Taliban and al Qaeda; second, it worried that its forces would suffer higher casualties than would be the case with an air campaign; and third, it did not want to get sucked into a protracted ground commitment.

The bombing campaign clearly exacerbated the humanitarian crisis in the short-term. Nevertheless, it could be argued that in removing the Taliban from power, the U.S. opened the door to the possibility of a new and more humane order in Afghanistan.⁵⁵ The key issue is whether the U.S. and the wider international community are exploiting this new opportunity to improve human rights or whether

⁵² I am grateful to Amin Saikal for suggesting this point to me.

⁵³ Conetta, 'Strange Victory', p.15.

⁵⁴ Conetta, 'Strange Victory', p.6.

Afghanistan is slipping off the map of moral concern, as with the withdrawal of Soviet forces in the late 1980s.

The 'Responsibility to Rebuild'

Having started down the path of intervention in Afghanistan and having, confined the humanitarian component to the delivery of aid, the Bush Administration found that it was not so easy to limit U.S. humanitarian responsibilities. In several speeches during 2002 administration officials expanded the moral justifications behind their intervention to encompass the rebuilding of Afghanistan as a law-governed state.⁵⁶ In an interview with the *Daily Telegraph* in February 2002, Rumsfeld asserted in response to a question of what had been won through the war: "Well, I think...number one [is] the fact that the Taliban no longer are the governing factor in that country. And in that sense, the people of Afghanistan have, in a significant way, been liberated from the policies and the repressive actions of the Taliban government".⁵⁷ U.S. officials were quick to point to expressions of this "liberation," such as the freedom of women not to wear the traditional burqa (though many are continuing to do so) and the return of girls and women to education. Speaking on 17 April 2002 at the Virginia Military Institute, the President emphasized the U.S. responsibility to help the people of Afghanistan. Invoking the vision of George Marshall and his successful plan that rebuilt Western Europe, Bush stated: "We know

⁵⁵ Jonathan Chait, 'Look who's against dropping food', *The New Republic*, 5 November 2001, www.thenewrepublic.com/110501/chait110501.html, downloaded on 23 March 2002 and Michael Walzer, 'Can there be a decent Left', *Dissent*, Spring 2002, www.dissentmagazine.org/editors/index_editors.htm, downloaded 4 July 2002.

⁵⁶ Simon Chesterman, 'Humanitarian Intervention and Afghanistan' in Jennifer Welsh (ed.), *title to be added*.

⁵⁷ 'You can only defend by finding terrorists and rooting them out', interview with US Secretary of Defence, 25 February 2002, www.telegraph.co.uk/core/content/displayPrintable.jhtml?xm.../wrum25.xml&site=, downloaded on 16 March 2002

that true peace will only be achieved when we give the Afghan people the means to achieve their own aspirations...peace will be achieved by helping Afghanistan develop its own stable government...By helping to build an Afghanistan that is free from this evil [the Taliban] and is a better place in which to live.”⁵⁸ Although a very small sum in comparison with the 3.8 billion dollars spent on the war against al Qaeda and the Taliban, the U.S. committed U.S.\$297 million as part of a three-year U.S.\$4.5 billion package of international aid agreed at the Afghan donor conference in Tokyo in January 2002. Two months later, the House International Relations Committee voted to further American aid through a package of U.S.\$1,100 million over a four-year period.⁵⁹ In addition, the U.S. continues to be the highest donor of emergency aid to Afghanistan. This is a vital contribution given the UN’s estimate in March 2002 that ‘millions of people will need food aid to survive until mid-2003.’⁶⁰

There was (and is) a fundamental flaw in the Bush Administration’s thinking about rebuilding Afghanistan. It has not recognised that long-term success depends upon a robust international military commitment to establishing peace and security. Without a replacement of ‘rule by Kalashnikov’⁶¹ with the rule of law, there is no prospect of long-term security for Afghans. Representatives of the different factions met in Bonn in December 2001 and agreed to the

⁵⁸ ‘President outlines war effort’, Remarks by the President to the George C. Marshall ROTC Award Seminar on National Security’, 17 April 2002, www.whitehouse.gov/news/releases/2002, downloaded on 20 May 2002.

⁵⁹ ‘Powell calls for Reconstruction in Afghanistan’, International Information Programmes, www.usinfo.gov/regional/nea/sasia/afghan/text/0424pwl.htm, 24 April 2002, downloaded on 25 May 2002 and ‘Congressional Report: Afghan Aid Package Approved’, International Information Programmes, www.usinfo.gov/regional/nea/sasia/afghan/text/0321aid.htm, downloaded on 25 May 2002.

⁶⁰ ‘Afghanistan: US\$1.18 billion still needed for recovery aid in 2002, UN says’, UN News Centre, 3 March 2002, www..../story.asp?NewsID=2983&Cr=Afghan&Cr1=reconstruc, downloaded on 3 March 2002.

⁶¹ The phrase is Conetta’s.

establishment of an interim central government headed by Hamid Karzai. They also agreed as part of the negotiations to the deployment of an International Security Assistance Force (ISAF) to help stabilise the situation. The Security Council adopted Resolution 1386 on 20 December 2001 establishing under Chapter VII a seventeen-nation force led by the UK comprising 4,500 troops. Its mandate was to assist the interim government in the maintenance of security in Kabul and its surrounding areas. The force is not charged with a peacekeeping role in the classic sense of the term because it has the authority 'to take all necessary measures to fulfil its mandate.'⁶² Central authority is very weak and Karzai's writ barely extends beyond Kabul where ISAF protects him and his administration.⁶³ The dominant political force in the government is the Tajiks who control the Defence and Interior Ministries. The Pashtuns resent the influence wielded by the Tajiks, do the Uzbek and Hazara militias who dominate the North East. A major flashpoint occurred in the summer of 2002 when the Tajik general Ostad Atta Muhammed clashed with the Uzbek commander Dostrum over control of Mazar-I-Sharif.⁶⁴ This pattern of regional military commanders competing for power and influence is repeated across large parts of the country.⁶⁵

Recognising that his authority depended upon an expansion of ISAF nationwide, Karzai requested this in January 2002.⁶⁶ UN officials

⁶² Security Council Resolution 1386, 20 December 2002.

⁶³ After the assassination of one of the five newly appointed Vice-Presidents, Karzai relied on American bodyguards to protect him. His own vulnerability was graphically underlined on 5 September 2002 when he narrowly escaped assassination during a visit to Herat.

⁶⁴ Michael Ignatieff, 'Nation-Building Lite', *The New York Times*, 28 July 2002, www.nytimes.com/2002/07/28/magazine/28Nation.html?tnemail0=&pagewa..., downloaded on 29 July 2002.

⁶⁵ 'The Loya Jirga: One Small Step Forward', Afghanistan Briefing, International Crisis Group, 16 May 2002, pp.2-3.

⁶⁶ Elizabeth Olson, 'U.N. official calls for a larger international force in Afghanistan', *The New York Times*, 28 March 2002.

from the Secretary-General down supported such a development. On 27 March, the UN's Special Representative on human rights in Afghanistan in his report to the Human Rights Commission stated: "The first priority in restoring human rights is security...how do you start the rule of law after the rule of the gun for so many years?"⁶⁷ In calling for the deployment of more troops across Afghanistan, Mr. Hossain reflected that "never has so much been at stake if a modest request for 10,000 to 20,000 international security forces is not urgently and immediately made available."⁶⁸ The U.S. based NGO Human Rights Watch (HRW) supported this pessimistic evaluation. Based on fieldwork in the country, it produced a report on 6 May 2002 that documented a climate of chronic insecurity in which ethnic minorities and women were especially vulnerable.⁶⁹ In a press release issued a day later, Kenneth Roth, Executive Director of HRW, declared, 'If the international community doesn't take more effective steps immediately to establish security throughout Afghanistan, the country is likely to return to the rampant human rights abuses and warlordism that

⁶⁷ Elizabeth Olson, 'U.N. official calls for a larger international force in Afghanistan', *The New York Times*, 28 March 2002.

⁶⁸ Elizabeth Olson, 'U.N. official calls for a larger international force in Afghanistan', *The New York Times*, 28 March 2002. This was also the urgent recommendation of the International Crisis Group. In a report published in March, the International Crisis Group (ICG) called for the immediate expansion of the force from 4,500 to upwards of 25,000 with a mandate to provide security in the major cities and secure the main transport routes. *Securing Afghanistan: The need for more international action*, International Crisis Group, 15 March 2002.

⁶⁹ 'Afghanistan: International Community Urged to Improve Security; letter from Kenneth Roth, Executive Director of Human Rights Watch to the President of the Security Council, 6 May 2002, www.hrw.org/press/2002/05/afghanlet/050702.htm, downloaded on 25 May 2002. Peter Bouckaert and Saman Zia-zarafi in an op-ed piece for *The Washington Post* on 20 March had pointed out that factional leaders were carving up the country and that the Tajik, Uzbek and Hazara leaders who controlled northern Afghanistan were responsible for human rights abuses against Pashtun civilians in the north. They cite one old man in an abandoned village who pleaded, 'If the foreigners don't help us, we won't be alive.' Peter Bouckaert and Saman Zia-Zarifi, 'For the sins of the Taliban', op-ed piece in *The Washington Post*, 20 March 2002, Human Rights Watch news, downloaded on 20 March 2002.

characterised the last decade.”⁷⁰ The disparity between Bush’s promise to help Afghan civilians live in dignity and the cruelty and abuses depicted by HRW could not be starker.

The U.S. is not oblivious to the need to provide security, but there was a debate within the administration during 2002 over how best to do this. On one side of the argument were the civilian leaders in the Pentagon who argued strongly against any direct participation of U.S. forces in ISAF, or any expansion of the force beyond Kabul. America contributes logistic and intelligence support, and is committed to helping evacuate ISAF in the event of an emergency. A key reason for the Pentagon’s opposition to an expansion of ISAF is that this would make any such operation far more dangerous. Second, it was believed that an enlargement of ISAF would impair U.S. search and destroy operations against residual al Qaeda forces. Third, an ISAF with a mandate to protect civilians would have to be prepared to challenge the power of the regional warlords, and the Secretary of Defence was not persuaded that this was a mission worth risking the lives of U.S. soldiers for. Finally, Rumsfeld had his eye on the larger war against terrorism and did not want U.S. forces tied up in Afghanistan when they could be needed to fight Iraq. Set against this position was the State Department, which argued that without an expansion of ISAF, there would be no long-term stability in Afghanistan.

Rumsfeld wanted the Afghans to take responsibility for their own security, and this position prevailed within the administration. The U.S. commitment to restoring law and order consisted of providing

⁷⁰ ‘Afghanistan: Rise in Factional Fighting Threatens Fragile Peace’, press release by Human Rights Watch, 7 May 2002.

funds for the training of a new national army and police force.⁷¹ And in the interim whilst this is being created, the administration has assigned small teams of Special Forces to keep the peace between the regional commanders and build up support for the central government. The problem is that the U.S. relies on local warlords to provide the intelligence to track down residual pockets of al Qaeda, and they want weapons and money in exchange for this. However, strengthening these warlords in the southern and eastern parts of the country is inimical to the task of building new state institutions because these Pashtun commanders resent the influence wielded by the Tajiks in the new government.⁷² The contradiction at the heart of U.S. post-war planning is that given the discontent felt by Pashtuns towards the central government, it is going to be very difficult to create a multi-ethnic national army. The Defence Minister, General Mohammed Fahim (leader of the 'Northern Alliance') is viewed with great suspicion by the other military commanders who perceive his plans to build a national army as a cover for consolidating the power of the Tajiks in government. And whilst the other warlords feel threatened by Fahim, they are unlikely to agree to demobilise their forces.⁷³

⁷¹ Gary J. Gilmore, 'U.S. Military Will Help Train Afghan Army', American Force Press Service, 25 March 2002, www.ntcgl.navy.mil/bulletin/operation.html, downloaded on 28 March 2002 and Ann Scott Tyson, 'Pentagon Challenge: Build an Afghan Army', www.globalpolicy.org/security/peacekpg/training/0411afg.htm, 11 April 2002, downloaded on 13 June 2002.

⁷² Michael Ignatieff, 'Nation-Building Lite', *The New York Times*, 28 July 2002, www.nytimes.com/2002/07/28/magazine/28Nation.html?tnemail0=&pagewa..., downloaded on 29 July 2002.

⁷³ Ahmed Rashid, 'Afghanistan still waiting to be Rescued', *Far Eastern Economic Review*, 14 March 2002, www.e-ariana.com/articles/artic225.htm, downloaded on 14 June 2002. In a speech to the Senate Foreign Relations Committee on 21 March 2002, Senator Joseph Biden noted that 'Gen. McColl's [British Commander of ISAF] planners has worked up a detailed strategy for creating an Afghan army and taking at least the heavy weaponry away from local warlords ('US Must Stay The Course in Afghanistan, Biden Says', International Information Programmes,

The Bush Administration's decision to accommodate the region's warlords rather than contribute to an expanded ISAF stemmed from fears of becoming trapped in an Afghan quagmire. It also rested on a profound misunderstanding of what went wrong in Somalia. The belief is that 'Operation Restore Hope' initiated by George Bush Senior in December 1992 succeeded because the U.S. worked with the military leaders. Conversely, the UN operation that replaced the U.S. led force failed because it embarked on the process of disarmament with disastrous results. This interpretation overlooks the fact that the mandate given by the Security Council to UNOSOM II in March 1993 was crucial because it aimed to strip the militias of their power and create the space for a civilian leadership to emerge.⁷⁴ The problem was that the UN force that replaced the Americans was too weak to challenge the power of the warlords. What U.S. officials fail to see is that the initial intervention was flawed because it failed to put in place structures for the long-term maintenance of the rule of law in Somali society. It is ironic that the current administration is repeating exactly the same error in Afghanistan.⁷⁵ To succeed in Afghanistan where the UN failed in Somalia, it is vital that ISAF be expanded to the major cities; display a readiness to use force against any factions violently opposing its mission; be equipped for combat operations with effective

www.usinfo.state.gov/regional/nea/sasia/afghan.../0322biden1.ht, downloaded on 21 May 2002.

⁷⁴ For a longer discussion of this argument, see Wheeler, *Saving Strangers*, pp.188-200.

⁷⁵ A similar view is taken by Sarah Sewall who writes that 'President George W. Bush is effectively setting up the UN to fail in Afghanistan, much as his Father's policies sowed the seeds for failure in Somalia' (Sarah Sewall, 'Confronting the warlord culture', *The Boston Globe*, 6 June 2002, www.globalpolicy.org/security/issues/afg/...0606warlords.ht, downloaded on 9 June 2002. Walter Clarke (who was Deputy Chief of Mission at the UN Embassy in Somalia during 'Operation Restore Hope' and Jeffrey Herbst argue that the failure to disarm the Somali warlords was a 'tragic mistake' and that the USA 'simply postponed the problems that logically followed from the intervention' (Walter Clarke and Jeffrey Herbst, 'Somalia and the Future of Humanitarian Intervention', *Foreign Affairs*, Vol.75, No.2 (1996), pp.74-5.

air support; the process of disarmament be applied in an impartial manner; any use of force respect the laws of war; have the widest possible backing among the different ethnic groups in Afghan society; operations exhibit cultural sensitivity; and that interveners not exit at the first sign of serious trouble.

By late summer of 2002, it was apparent that opposition to limited expansion of ISAF was softening among Pentagon hard-liners. As the security situation in Afghanistan deteriorated, and pressure mounted within the Congress for a stronger international security presence, the administration indicated that it was prepared to support a modest expansion of the international force. Joseph Biden and Richard Lugar of the Senate Foreign Relations Committee spearheaded a bi-partisan effort in early August 2002 that resulted in a bill urging Bush to expand ISAF, authorizing U.S.\$1 billion to this end.⁷⁶ The concern among members of the Committee was that a failure by the U.S. to provide effective security could lead to a renewal of civil war, necessitating a more costly American intervention to rectify the situation. In an interview with the Daily Telegraph on 21 August 2002, Paul Wolfowitz, Deputy Secretary of Defence, gave voice to the shift in administration thinking: 'I think there are some benefits that could come from using ISAF in ways outside of the capital, not necessarily as a permanent presence but as a way of providing some transitional security in places where it's needed'.⁷⁷ Some ideas being considered

⁷⁶ Glenn Kessler, 'U.S. fears grow over turmoil in Afghanistan', *Washingtonpost.com*, 8 August 2002, <http://www.washingtonpost.com/.../A57194-2002Aug7?language=print>, downloaded 10 September 2002.

⁷⁷ Deputy Secretary of Defence, Paul Wolfowitz, interview with Ahmed Rashid, *Daily Telegraph*, 21 August 2002, available at Defense Link, U.S. Department of Defence, http://www.defenselink.mil/news/Aug2002/t08292002_t0821.html, downloaded on 6 September 2002. General Tommy Franks, speaking at Bagram Air Force base north of Kabul in late August stated: 'There are in fact views and a number of places that would indicate the desirability of expanding the International Security Assistance Force'. Quoted in Michael R. Gordon, 'U.S. Backs Increase in Peacekeepers for Afghanistan', *New York*

involved creating a mobile group of peacekeepers that could be deployed to trouble spots and placing forces in cities where there are tensions between rival warlords as in Mazar-I-Sharif.⁷⁸ One important motivation behind the change of heart on the part of senior Pentagon officials was that improved security might allow U.S. troops to be redeployed if needed against Iraq.⁷⁹

The extent of this shift should not be exaggerated since there was still no question of American troops being committed to ISAF. And in the absence of this, it is extremely unlikely that other states will be prepared to volunteer the necessary forces. The continuing reluctance of the Bush Administration to join ISAF is crippling efforts at rebuilding a viable civic authority in Afghanistan. U.S. officials have expressed frustration at the slowness with which the 4.5 billion of aid pledged at Tokyo has been reaching Afghans. Aid is significant in boosting the authority of the central government, and in providing combatants with incentives to lay down their arms and return to civilian life. Indeed, economic development offers the best long-term hope of persuading people to abandon the patronage of the warlords. However, as many critics of the administration have pointed out, the prerequisite for this process of political and economic reconstruction is greater security. In

Times, 30 August 2002,
<http://.../30AFGH.html?tnemail0=&pagewanted=print&position=to>, downloaded on 31 August 2002.

⁷⁸ Michael R. Gordon, 'U.S. Backs Increase in Peacekeepers for Afghanistan', *New York Times*, 30 August 2002,
<http://.../30AFGH.html?tnemail0=&pagewanted=print&position=to>, downloaded on 31 August 2002. Some of the ideas under consideration in the administration such as an air and land mobile armoured unit for deployment to trouble spots was first suggested by William Durch in his 'A realistic plan to save Afghanistan', *Washingtonpost.com*, 30 August 2002, <http://www.washingtonpost.... /A18564-2002Jul29?language=printe>, downloaded on 10 September 2002.

⁷⁹ Michael R. Gordon, 'U.S. Backs Increase in Peacekeepers for Afghanistan', *New York Times*, 30 August 2002,
<http://.../30AFGH.html?tnemail0=&pagewanted=print&position=to>, downloaded on 31 August 2002.

the absence of this, as Mike Jendrzeczyk of HRW points out, there will be no 're-emergence of Afghan civil society, and [no establishment of the] legal and administrative institutions to protect the rights of all Afghans'.⁸⁰ This is why a major expansion of ISAF led by the U.S. remains crucial if Bush is to live up to his promise to leave Afghanistan better than he found it.⁸¹

In addition to its moral responsibilities to the Afghan people, the U.S. has a compelling security interest in making Afghanistan a success. In response to the charge that U.S. policies risk a return to civil war – with the possibility that a new hostile government could come to power – supporters of the administration reply that no future Afghan government would defy the U.S. having seen what its military power did to the Taliban.⁸² If this viewpoint describes official thinking, then it highlights the marginal role that humanitarian concerns play in administration policy. But even in its own terms, this conception of security is myopic and self-defeating; it fails to locate the war in Afghanistan as part of a larger struggle for hearts and minds in the Islamic world. After promising to help Afghans live in dignity, the U.S. will further erode what support it enjoys among Muslims if it is perceived as merely seeking its own interests in Afghanistan. The effect

⁸⁰ Mike Jendrzeczyk, 'A Major U-turn in U.S. policy on peacekeeping', *International Herald Tribune*, 6 September 2002, <http://w.../generic.cgi?template=articleprint.tmplh&ArticleId=6989>, downloaded 10 September 2002.

⁸¹ This was the view of Senator Biden whose preference was for other states to contribute the bulk of an enlarged ISAF, but he was emphatic that the US should commit 'to insuring the mission's success [and]...if the deployment of American troops as part of an international force is deemed necessary, we should certainly step up to the plate' (quoted in 'US Must Stay The Course in Afghanistan, Biden Says', International Information Programmes, www.usinfo.state.gov/regional/nea/sasia/afghan.../0322biden1.ht, downloaded on 21 May 2002). US forces in Afghanistan are committed to providing logistic support, communications and military assistance to ISAF.

⁸² See comments by Ted Galen Carpenter, 'After Afghanistan: The Future of Intervention and Nation Building, Cato Institute Policy Forum, Washington, D.C., 12 December 2001.

being to further radicalise Muslim opinion against U.S. interests and values.⁸³ The problem is that this threat to U.S. security is intangible to policy makers compared with the immediate costs and hazards of taking on a robust peace enforcement role inside Afghanistan.

Conclusion

Just as Vietnam would not have launched its intervention without a compelling threat to national security, the U.S. only used force against the Taliban because of the attacks on September 11. The fact that national interest was the primary motivating factor should not automatically disqualify OEF as a humanitarian intervention. As I argued in relation to the Vietnamese action, the key test is whether non-humanitarian motives prevent an intervention from satisfying – however accidentally – the criteria of proportionality and a positive humanitarian outcome (presupposing that the other two criteria I identified have also been satisfied). Endorsement of OEF as a case of “inadvertent humanitarian intervention” has come from Walzer, a prominent member of the liberal left in U.S. politics. He suggests that “the Taliban regime had been the biggest obstacle to any serious effort to address the looming humanitarian crisis, and it was the American war that removed the obstacle. It looked (almost) like a war of liberation, a humanitarian intervention.”⁸⁴ There are two basic

⁸³ Fred Hiatt, ‘Underachieving Afghanistan’, 20 May 2002, www.washingtonpost.com/ac2/wp-dyn/A42742, downloaded on 20 May 2002.

⁸⁴ Michael Walzer, ‘Can there be a decent Left’, *Dissent*, Spring 2002, www.dissentmagazine.org/editors/index_editors.htm, downloaded 4 July 2002. This claim also finds endorsement from Martin Woollacott who writes, ‘But a new interventionism governed by the drive against terrorism is not primarily about rescuing “them” but about rescuing “us”’. Tony Blair finds it possible to sit these two things side by side, presenting Afghanistan as both a pre-emption of terror and a *humanitarian intervention*. *Of course this is correct, but we know which came first*’ (‘Peacekeeping is no longer about helping ‘them’ but ‘us’, *The Guardian*, 5 July 2002, (emphasis added).

problems with this position. First, it exaggerates the success of OEF in humanitarian terms; second, it overlooks the fact that U.S. policy makers explicitly defended the use of force on humanitarian grounds. It is important to differentiate between cases where a humanitarian outcome is an unintended by-product of an intervention (Vietnam's intervention in Cambodia) and those where governments publicly establish a normative benchmark with which to judge the results of an intervention. By laying claim to the moral high ground in the hope of winning over domestic and world public opinion, the Bush Administration exposed itself to such an assessment. I have argued that measured against this yardstick, the U.S. action fails as a humanitarian intervention. The Bush Administration's refusal to lead on ISAF expansion is the best example of its failure to match words with deeds. The reluctance of the U.S. to accept the risks to its military personnel that would be required by a long-term commitment to protect Afghans is indicative of the minor role that humanitarian considerations played in the decision to act. This supports Roberto Belloni's contention that "If motives are largely non-humanitarian, then it is unlikely that the intervening states would be involved in any way in a post-war transition, because the principles that led to the intervention are only superficially altruistic."⁸⁵ The implication of this is that if humanitarian intervention is defined – as I have argued it should be – in terms of a 'responsibility to rebuild', it will be rare to find a correspondence between non-humanitarian motives and a positive humanitarian outcome.

⁸⁵ Roberto Belloni, 'Kosovo and Beyond: Is Humanitarian Intervention Transforming International Society', *Human Rights and Human Welfare*, Vol.2, No.1 (Winter 2002), p.38.

The U.S. intervention, like that of the Vietnamese, was primarily justified as self-defence. But the fundamental change in legitimating principles in international society in the intervening two decades also enabled the U.S. to utilize humanitarian arguments. During the Cold War, this line-of-defence had not been available to policy makers because human rights imperatives were firmly subordinated to the principles of sovereignty, non-intervention and the non-use of force. The best example of a state being constrained from raising humanitarian claims during the Cold War was Tanzania's intervention to topple the government of Idi Amin in 1979. Despite being moved to act by humanitarian concerns, there is every reason to think that without the prior Ugandan attack against Tanzanian territory, President Julius Nyerere would not have acted. He acknowledged in several speeches at the time that humanitarian intervention was not a legitimate basis for the use of force against another sovereign state.⁸⁶ However, as a consequence of the inroads that human rights made into the principle of sovereignty during the 1990s, a new norm of intervention has developed supporting the use of force to protect civilians from genocide, mass murder and ethnic cleansing. This norm is strongest among Western states, which have been the key players through the 1990s in establishing this new principle in international society. The extent to which the language of humanitarianism has become a legitimating ground for US intervention can be seen in the fact that despite being primarily motivated by vital security interests, the administration felt the need to invoke a humanitarian rationale alongside that of self-defence.

⁸⁶ This case is discussed in detail in Wheeler, *Saving Strangers*, pp.111-139.

There are two opposing interpretations of this increasing reliance on humanitarian justifications. One is that if governments are required to defend the use of force on these grounds, this will inhibit them from acting in ways that directly contradict the stated moral purposes. The argument for this 'constraining effect' is that governments - even the most powerful - do not want to be exposed as hypocrites. This creates a need to ensure conformity between legitimating reasons and subsequent actions. Alternatively, there are those who argue that this belief in the power of norms underestimates the capacity of states to manipulate the discourse of humanitarianism to serve their own ends.⁸⁷ The case of American intervention in Afghanistan suggests that the critics are right to caution against investing too much confidence in the constraining effect of humanitarian norms. Before September 11, opponents of U.S. foreign policy were anxious that the discourse of humanitarianism would enable the U.S. to intervene at will. American policy in Afghanistan will have done nothing to mollify this concern.⁸⁸ Although there has been criticism of U.S. policy from members of the Congress, the media, academics and the wider human rights community, an effective opposition capable of holding the administration accountable for its actions has not developed.

Does this mean that humanitarian norms cannot function to inhibit the single superpower? Such a conclusion is too sweeping since there are two contextual factors that might be adduced as to why this constraint failed to exert much influence in this case. The first is that most Americans were fixated on the atrocities committed by al Qaeda and the continuing threat posed by terrorism. As a result, they did not

⁸⁷ An exponent of this view is Noam Chomsky. See Noam Chomsky, *The New Military Humanism: Lessons from Kosovo* (Monroe: Me.: Common Courage Press, 1999).

⁸⁸ Noam Chomsky, *9-11* (Seven Stories Press: New York, 2001).

feel a strong sense of solidarity with the plight of Afghan strangers. The second explanation is that public opinion simply did not recognise an inconsistency between the administration's words and its deeds. Walzer suggests that effective opposition to U.S. policy has been "politically disarmed" by "pictures of [Afghan] women showing their smiling faces to the world, of men shaving their beards, of girls in school."⁸⁹ As I have argued, these manifestations of progressive change are predominantly restricted to Kabul where ISAF operates. For many Afghan civilians, their daily lot remains one of fear, insecurity and a struggle for survival. Unfortunately, this picture of Afghan life painted by human rights NGOs and other informed commentators failed to capture the moral imagination of millions of Americans. Strengthening the inhibiting effect of humanitarian norms on future U.S. policy depends upon establishing a public sphere in which American citizens are mobilised to demand the inclusion of humanitarian values in foreign policy. In the absence of this, the danger is that U.S. policy makers come to believe that they can use force without legal or moral censure provided they couple this with a token humanitarianism that will nullify dissent at home.⁹⁰

There are two fundamentally different approaches to viewing the relationship between humanitarian intervention and self-defence in the war against terrorism. The first is the model of 'direct self-defence' where military strategy is aimed at defeating the capabilities of selected terrorist groups, or states that are sponsors and/or perpetrators of terrorism. The motivation for intervention would be the protection of vital national interests and the threat of danger is both compelling and

⁸⁹ Michael Walzer, 'Can there be a decent Left', *Dissent*, Spring 2002, www.dissentmagazine.org/editors/index_editors.htm, downloaded 4 July 2002.

⁹⁰ I owe this point to Patricia Owens

immediate. The challenge facing those committed to human rights is to mobilise domestic and international public opinion to ensure that humanitarian aims are factored into military planning. The Bush Administration did not deny this responsibility in relation to Afghanistan, but it failed to back up its moral claims with an effective strategy for civilian protection. An important task for those who believe that violent humanitarianism is not a contradiction in terms is to show that there were alternative military strategies that could have met both counter-terrorist and humanitarian goals.

Even if future operations of direct defence are conducted with greater regard for their humanitarian impact, the nexus between human rights and self-defence offers no prospect of humanitarian intervention in cases where there is no direct threat to national security. It was the lack of a compelling security rationale that led UN Member States to abandon the people of Rwanda to their fate in 1994. Unless a future genocide posed a clear threat to prospective interveners, reliance on direct defence would provide no basis for rescue. The latter can be contrasted with what Miller calls “indirect self-defence” where states recognise a general interest in preventing the spread of violence and oppression on a global scale.⁹¹ The danger to our security is not immediate as in the case of direct defence, but if injustice and violence are allowed to flourish in distant places, the result will be an erosion of restraints against violence everywhere. Had such an argument shaped Western policy towards Afghanistan in the early 1990s, the country might never have become a sanctuary for bin Laden and al Qaeda.

⁹¹ Miller, ‘Humanitarian Intervention’, p.17. Miller identifies Michael Walzer’s writings as indicative of this position. He cites Walzer’s claim that ‘all states have an interest in global stability [because] ‘Uncivilized behaviour...tends to spread, to be imitated and reiterated...[leading to] turmoil and lawlessness nearer home (quoted in Miller, ‘Humanitarian Intervention’, p.17).

What September 11 showed was not only the terrible moral consequences that can flow from allowing states to collapse into violence and disorder, but also the indivisibility of security on a global scale. Writing before the terrorist attacks against New York and Washington, Miller contended that 'indirect self-defence' was flawed as a motivation for humanitarian intervention because states that are less vulnerable to the effects of distant violence have no incentive to act. Conversely, those that have most to gain from containing the escalation of conflict might be least capable of acting.⁹² Miller is right that 'indirect self-defence' has not served to persuade citizens in the West to sacrifice for strangers, but it does not follow from this that it is flawed as a moral basis for humanitarian intervention. The thrust behind indirect defence is the price of inaction only manifests itself over the longer term. This is the argument that Western governments should have made to their publics when confronted with the genocide in Rwanda.

In his speech to the Labour Party conference in October 2001, Tony Blair asserted that the international community would have a compelling 'moral duty' to stop another genocide like the Rwandan one.⁹³ He was keen to identify his support for Bush's war against terrorism as part of a wider moral agenda of internationalism. But his promise that future genocides would not be ignored begs the question of whether an ethic of human solidarity can be developed to realise this project. The story of humanitarian intervention in the 1990s points to the triumph of particularist moral attachments over universalist ones.

⁹² Miller, 'Humanitarian Intervention', pp.17-18. He might have cited the case of Rwanda in support of his argument: those African states that had the will to act lacked the means, and those Western states that had the means to act lacked the will.

⁹³ Tony Blair, speech to the Labour Party Conference, 2 October 2001, www.cnn.com/2001/WORLD/europe/10/02/ret.blair.address, downloaded 4 July 2002.

Western publics have sympathised with those in need and they have often been quite generous in donating aid, but their governments have steadfastly refused to pay the human costs necessary for effective intervention. The failure of Western states - crucially the U.S. - to take a leadership role over ISAF expansion does nothing to suggest that this basic moral proclivity has changed.

The Bush Administration failed to seize the opportunity in Afghanistan, but September 11 opens the door to interventions that protect both U.S. security and humanitarian values. Yet at a deeper level, the war against terrorism has not affected the struggle between a realist ethic that seeks to limit risks to interveners and one of common humanity that believes military personnel should be placed in danger to protect fellow humans in peril. It is the outcome of this moral battle and not September 11 that will determine the future of humanitarian intervention.